

HOUSE MAJORITY WHIP  
**JAMES E. CLYBURN**  
THE DAILY WHIPLINE

**Tuesday, March 11, 2008**

House Meets At...	Votes Predicted At...
10:30 a.m. For Morning Hour 12:00 p.m. For Legislative Business  Unlimited "One-minutes"	Last Vote: 8:00-9:00 p.m.

**Any anticipated Member absences for votes this week should be reported to the Office of the Majority Whip at 226-3210.**

**Floor Schedule and Procedure**

- **Suspension Bills:** Today, the House will consider several bills on the Suspension calendar. Bills considered on the Suspension calendar are debatable for 40 minutes; may not be amended; and require a two-thirds vote for passage. If a recorded vote is requested, it will be postponed.
  - 1) H.R. 5492** – To authorize the Board of Regents of the Smithsonian Institution to construct a greenhouse facility at its museum support facility in Suitland, Maryland, and for other purposes (Rep. Matsui – Transportation and Infrastructure)
  - 2) H.Res. 936** – Honoring the 200th anniversary of the Gallatin Report on Roads and Canals, celebrating the national unity the Gallatin Report engendered, and recognizing the vast contributions that national planning efforts have provided to the United States (Rep. Blumenauer – Transportation and Infrastructure)
  - 3) H.Res. 854** - Expressing gratitude to all of the member states of the International Commission of the International Tracing Service (ITS) on ratifying the May 2006 Agreement to amend the 1955 Bonn Accords granting open access to vast Holocaust and other World War II related archives located in Bad Arolsen, Germany (Rep. Hastings (FL) – Foreign Affairs)
  - 4) H.Con.Res. 290** – Commemorating the 175th anniversary of the special relationship between the United States and the Kingdom of Thailand (Rep. Manzullo - Foreign Affairs)
  - 5) H.Res. 1024** – Recognizing the 187th anniversary of the independence of Greece and celebrating Greek and American Democracy (Rep. Ros-Lehtinen – Foreign Affairs)
  - 6) H.Res. 945** - Raising awareness and promoting education on the criminal justice system by establishing March 2008 as "National Criminal Justice Month." (Rep. Poe – Judiciary)
  - 7) H.R. 4056** - The Federal Law Enforcement Officers Congressional Badge of Bravery Act of 2008 (Rep. Ellsworth – Judiciary)

- 8) **H.R. 1312** - Arts Require Timely Service (ARTS) Act (Rep. Berman – Judiciary)
  - 9) **H.R. 3361** - To make technical corrections related to the Pension Protection Act of 2006 (Rep. Rangel – Ways and Means)
  - 10) **H.R. 5563** – Generations Invigorating Volunteerism and Education (GIVE) Act (Rep. McCarthy (NY) – Education and Labor)
  - 11) **S. 2733** - To temporarily extend the programs under the Higher Education Act of 1965 (Sen. Kennedy – Education and Labor)
  - 12) **H.Res. 953** Expressing the sense of the House of Representatives that all Americans should participate in a moment of silence to reflect upon the service and sacrifice of members of the United States Armed Forces both at home and abroad, and their families (Rep. Knollenberg – Armed Services)
- **Vote on Overriding the President's Veto of H.R. 2082 - The Intelligence Authorization Act of 2008:**
    - One hour of debate
    - Vote on overriding the President's Veto. **Democrats are urged to vote YES.**
  - **H. Res. 1031–Rule providing for the adoption of H.Res. 895 – A resolution establishing within the House of Representatives an Office of Congressional Ethics (Rep. Sutton – Rules):** The rule provides that House Resolution 895, amended by the amendment printed in the Rules Committee report accompanying the resolution, is hereby adopted. Debate on the resolution will be managed by Rep. Sutton, and consideration will proceed as follows:
    - One hour of debate on the rule.
    - Possible vote on a Democratic Motion ordering the previous question. **Democrats are urged to vote yes.**
    - Vote on adoption of the rule. **Democrats are urged to vote yes.**
  - **Postponed Suspension Votes:** Today the House will take recorded votes on the following suspension bills, which were debated on Monday:
    - 1) **H.Res. 924** - Congratulating Iowa State University of Science and Technology for 150 years of leadership and service to the United States and the world as Iowa's land-grant university (Rep. Braley – Education and Labor)
    - 2) **H.Res. 948** - Congratulating the University of Kansas ("KU") football team for winning the 2008 FedEx Orange Bowl and having the most successful year in program history (Rep. Boyda – Education and Labor)
    - 3) **H.Res. 493** - Congratulating the women's water polo team of the University of California, Los Angeles, for winning the 2007 NCAA Division I Women's Water Polo National Championship, and congratulating UCLA on its 100th NCAA sports national title, making it the most accomplished athletic program in NCAA history (Rep. Lewis (CA) – Education and Labor)

## **Bill Summary and Key Issues**

### **H.RES. 895 – ESTABLISHING WITHIN THE HOUSE OF REPRESENTATIVES AN OFFICE OF CONGRESSIONAL ETHICS, AND FOR OTHER PURPOSES**

#### **Establishing an independent Office of Congressional Ethics**

H.Res. 895 provides for the creation of an Office of Congressional Ethics (OCE), as an independent office within the House. Through the creation of the OCE, the House will significantly increase the transparency and accountability of its ethics enforcement process through greater timely reporting by a body of individuals who are independent from the House.

- Independent office within the House.
- Composed of 6 Board members, jointly appointed by the Speaker and Minority Leader. (Speaker nominates three subject to concurrence of Minority Leader; Minority Leader nominates three subject to concurrence of Speaker.) Current Members of the House, federal employees, and lobbyists are not eligible.
- Term of 4 years, one reappointment possible. Removal only with approval of both the Speaker and Minority Leader acting jointly.

#### **Review Process**

Self-initiated review. Member-filed complaints still go directly to the Ethics Committee. Two-step review process – (1) preliminary review, (2) second-phase review.

- Preliminary reviews are initiated by 2 Board members (one nominated by the Speaker, one nominated by the Minority Leader) submitting written notice to all other board members. Board must notify both the person who is the subject of the review and the Ethics Committee at each step in process. Preliminary review phase is 30 calendar or 5 legislative days, whichever is longer. 3 Board members must vote affirmatively to move forward to second-phase review. Otherwise, the preliminary review is terminated and no publication is required.
- A second-phase review is 45 calendar or 5 legislative days, whichever is longer, with one extension of 14 calendar days possible. All matters subject to a second-phase review must be referred to Ethics Committee for its review.
- Referrals to Ethics Committee will be accompanied by two documents: (1) a Report, which recommends dismissal, further inquiry, or states that the Board vote was a tie, and (2) Findings of fact. Neither document shall contain conclusions regarding the validity of the allegations or the guilt or innocence of the person subject to the review – such matters are the sole purview of the Ethics Committee.

#### **Ethics Committee**

Committee has 45 calendar or 5 legislative days from date of referral to review the matter, whichever is longer. One extension of 45 calendar or 5 legislative days is available. On most matters, at the end of the time, the Ethics Committee must issue commentary on status, along with the Report and Findings of the Board.

- On matters both the Board and Ethics Committee agree should be dismissed, no publication is required. If the Ethics Committee defers its review of a matter at the request of an appropriate law enforcement or regulatory authority (e.g., Justice Dept.), an announcement of such deferral is required.

- If the Ethics Committee establishes an investigative subcommittee, only that fact is publicized. If no conclusion after one year, the Board's Report is published. Board Findings are published at close of that Congress.
- If the Ethics Committee requests that the Board refer a matter prior to completion of its review, it is still subject to the time limits and reporting requirements set forth above.

## **AMENDMENTS TO THE PROPOSED REFORMS TO THE ETHICS PROCESS**

Initial Proposal – OCE board appointments must be jointly made, but after 90 days appointments are made separately by the Speaker and Minority Leader without need for approval.

The amendment will take a further step to ensure bi-partisanship on the OCE.

- All appointments must be joint appointments. No time limit.
- Speaker nominates three OCE members subject to concurrence of Minority Leader.
- Minority Leader nominates three OCE members subject to concurrence of Speaker.

Initial Proposal – A review is initiated at the request of two OCE board members. The two can be appointees of the same party leader.

This was the most frequently cited concern. Many Members felt that allowing the initiators to be people appointed by the same party leader did not sufficiently deter partisan-motivated witch hunts.

- The proposal will be amended so that reviews can be initiated only pursuant to a bi-partisan request -- one initiating member must have been nominated by the Speaker and the other by the Minority Leader.

Initial Proposal – The only way to terminate a review before it advances to the second phase is the affirmative vote of four OCE board members.

This amendment will prevent partisan inquiries by two “rogue” members of the OCE.

- The amendment would terminate a review unless at least three members of the OCE affirmatively vote to advance it. This effectively requires the original two, jointly appointed, bi-partisan members to convince at least one more jointly appointed member that more information is needed to make a thoughtful decision on an allegation.

**Taken together, these three amendments make it impossible to initiate a partisan witch hunt ... and impossible to use partisan stonewalling to thwart a reasonable review once it has begun. Members are protected, but so is the integrity of the process.**

### Miscellaneous Amendments

- Language will be clarified stating that House Members and staff are prohibited from inappropriately communicating with OCE board members or staff about a case that may be before the OCE.
- The language banning ex parte communication will be clarified to ensure that it applies to OCE staff as well as board members.
- OCE staff, as well as OCE members, will be subject to the three-year pledge to not seek federal elective office.
- Language will be clarified that OCE staff are subject to the same restrictions as Ethics Committee staff relative to non-partisanship, prohibition on political activity, etc.
- Members and staff of the OCE will be required to sign the same pledge of confidentiality as currently required for Ethics Committee staff.

- Members and staff of the OCE will be clearly prohibited from leaking information pursuant to the same limitations that apply to Ethics Committee Members and staff.

Common Cause, U.S. PIRG, Norm Ornstein of the American Enterprise Institute and Tom Mann of the Brookings Institution support this revised proposal. The endorsements by these nationally respected, independent, non-partisan validators will increase public trust in the Congress' commitment to reform and our ability to police ourselves.

### **Quote of the Day**

"A great democracy must be progressive or it will soon cease to be a great democracy" -Theodore Roosevelt

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